

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

FREEPLAY MUSIC, LLC,

Plaintiff,

v.

POCKET FILMS,

Defendant.

Civil Action
No.

**COMPLAINT AND
JURY DEMAND**

Plaintiff Freeplay Music, LLC (“FPM”), through its undersigned attorneys, Baker & Hostetler, LLP, complains of defendant Pocket Films:

Nature of the Action

1. By this complaint, FPM—a music publisher that has invested and risked money, time, and energy to develop its catalogue of copyrights—seeks redress for Pocket Films’ copyright infringement. Pocket Films exploited, without authorization, 47 of FPM’s copyrighted sound recordings and compositions, in 89 separate uses, by incorporating them into videos posted on websites Pocket Films promotes and from which it profits. Despite being on notice of its infringement, Pocket Films has refused to remedy its wrongdoing, leaving FPM no alternative but to bring this action.

Parties

2. FPM is a Delaware limited liability company, with a principle place of business in New York, New York.
3. Pocket Films is an Indian company, with a principal place of business in Mumbai, India.

Jurisdiction and Venue

4. FPM's claims arise under the Copyright Act, 17 U.S.C. §§ 101 *et seq.* Subject matter jurisdiction over this action is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338.

5. Venue in this District is proper under 28 U.S.C. § 1391.

6. The Court has personal jurisdiction over Pocket Films because FPM's claim is brought pursuant to a Federal statute and, upon information and belief, Pocket Films publication of the 61 videos through the Internet is pervasive throughout the United States.

7. Pocket Films uploaded 61 videos containing 89 uses of FPM's copyrighted music to the Internet to promote its videos, services and reach potential customers throughout the United States.

FPM and Its Business

8. In 2001, Scott Schreer, one of America's most prolific and performed TV composers and producers, launched FPM, a high quality online music library. Schreer, whose credits include, among many others, the *NFL on Fox* theme, is also a contributing composer to a portion of FPM's catalogue.

9. FPM makes its catalogue available on its website. To download music a user must obtain a license that corresponds to the user's use (i.e., personal, commercial, etc.). The cost of such license varies depending on use.

10. With over 200,000,000 impressions to its website as of 2013, FPM is one of the most widely trafficked production music libraries in the industry. Since July 2013, FPM has issued over 3.5 million licenses to the copyrighted music in its library.

11. All use of FPM's music requires a license.

12. When a user logs on to FPM’s website, <http://www.freeplaymusic.com/>, the user is presented with a variety of choices and thousands of musical works (i.e., sound recordings and the underlying musical compositions), all of which are available for certain types of exploitation. Once the user chooses the desired musical work and selects “Add to Cart,” the user is prompted to choose a license type:

Duration	License Type	License Fee	Terms
06:16	Select Select YouTube Business Use- Youtube (unlimited URLs)(1 Year(s), \$250.00) Personal use on YouTube only(99 Year(s), \$0.00) Business Multimedia Unlimited (non-broadcast) [worldwide](1 Year(s), \$250.00) Music on Hold [single track](1 Year(s), \$25.00) Web Page Use(1 Year(s), \$100.00) Multimedia one use (non-broadcast) [worldwide](1 Day(s), \$50.00) Game/App Use(1 Year(s), \$150.00) Education In-Classroom Use(99 Year(s), \$0.00) Film Commercial Film Festival [track](7 Day(s), \$50.00) Commercial Unlimited Film Festivals [per track](1 Year(s), \$150.00) Student Film Festival (non commercial)(1 Year(s), \$0.99) Professional Use (per track)(1 Year(s), \$500.00) Indie trailer (theatrical and web) [US Only](1 Year(s), \$250.00) Internet Personal use (Social Media)- non promotional(99 Year(s), \$0.99)		Terms of Use <div>Add more Tracks</div> <div>Proceed to checkout</div>

13. The user cannot “Proceed to Checkout” without choosing a license type.
14. Once the user chooses a license and decides to “Proceed to Checkout,” a window pops up displaying the “FPM License,” requiring the user to read and agree to the terms of the license.
15. Until July 2013, any exploitation of FPM’s music “posted on a website” required a paid license. After July 2013, a user could obtain a free license to use certain music in FPM’s catalogue on YouTube, provided it was for “personal use” only. Any “business use” of FPM’s music requires a paid license.

Pocket Films

16. Upon information and belief, Pocket Films is an aggregator and distributor of alternate content. Upon information and belief, Pocket Films promotes itself by using its various platforms, including the Internet sites hosted by YouTube and Facebook, to make alternate content available for instant consumption by the users of those websites. Upon information and belief, Pocket Films profits from revenue share opportunities with its alternate content creators, as well as corporate partnerships formed as a result of its use of these platforms.

The FPM Copyrights at Issue and Pocket Films' Unauthorized Exploitation

FPM's Copyrights

17. FPM is the owner of the registered copyrights (the "FPM Copyrights") in and to the musical compositions and sound recordings (the "FPM Copyrighted Music") set forth below:

- a. "Magic Dulcimer," covered by Registration No. SR 333-618 covering the collection *World Mix Volume 4*.
- b. "Appalachian Dance," covered by Registration No. SR 333-618 covering the collection *World Mix Volume 4*.
- c. "Lotus Blossom," covered by Registration No. SR 333-618 covering the collection *World Mix Volume 4*.
- d. "All Night," covered by Registration No. SR 333-635 covering the collection *TV Themes Volume 1*.
- e. "Bum Ticker," covered by Registration No. SR 333-636 covering the collection *Business & Finance Volume 1*.
- f. "Trudge," covered by Registration No. SR 333-651 covering the collection *Alternative Rock Volume 1*.
- g. "Ascent" covered by Registration No. SR 335-537 covering the collection *Sports Promos Volume 1*.
- h. "Heroes Salute," covered by Registration No. SR 335-537 covering the collection *Sports Promos Volume 1*.

- i. “Abandoned,” covered by Registration No. SR 335-548 covering the collection *Drama Volume 1*.
- j. “Banging,” covered by Registration No. SR 374-911 covering the collection *Freeplay Music Corp./ DVD #4*.
- k. “Raw Athleticism,” covered by Registration No. SR 335-708 covering the collection *World Mix Volume 5*.
- l. “Always Be There,” covered by Registration No. SR 335-719 covering the collection *Pop Volume 1*.
- m. “Alley Kat,” covered by Registration No. SR 335-719 covering the collection *Pop Volume 1*.
- n. “Can’t Catch Me,” covered by Registration No. SR 336-918 covering the collection *Sports Highlights Volume 2*.
- o. “Long Gone,” covered by Registration No. SR 336-939 covering the collection *Blues Volume 1*.
- p. “Blue Dreams,” covered by Registration No. SR 336-939 covering the collection *Blues Volume 1*.
- q. “Attention Shoppers,” covered by Registration No. SR 336-994 covering the collection *Retail Volume 1*.
- r. “Show Me The Way,” covered by Registration No. SR 337-059 covering the collection *Solo Instruments Volume 1*.
- s. “Delta Fog,” covered by Registration No. SR 337-059 covering the collection *Solo Instruments Volume 1*.
- t. “Journeys End,” covered by Registration No. SR 337-059 covering the collection *Solo Instruments Volume 1*.
- u. “Just Enough,” covered by Registration No. SR 337-059 covering the collection *Solo Instruments Volume 1*.
- v. “Etude Blanc,” covered by Registration No. SR 337-059 covering the collection *Solo Instruments Volume 1*.
- w. “On The Water,” covered by Registration No. SR 337-200 covering the collection *Beauty Shots Volume 1*.
- x. “Mind Star Seven,” covered by Registration No. SR 337-212 covering the collection *Techno Volume 1*.

- y. “Buzz,” covered by Registration No. SR 337-221 covering the collection *Sports Highlights Volume 3*.
- z. “Technotic,” covered by Registration No. SR 337-221 covering the collection *Sports Highlights Volume 3*.
- aa. “Driftwood,” covered by Registration No. SR 362-469 covering the collection *Just The Weather Volume 1*.
- bb. “Bunny Food,” covered by Registration No. SR 374-911 covering the collection *Freeplay Music Corp./DVD #4*.
- cc. “Going Gone,” covered by Registration No. SR 374-912 covering the collection *Freeplay Music Corp./DVD #3*.
- dd. “Mixed Emotions,” covered by Registration No. SR 374-914 covering the collection *Freeplay Music Corp./DVD #7*.
- ee. “Adagio,” covered by Registration No. SR 378-924 covering the collection *Freeplay Music Corp./DVD #5*.
- ff. “Jules,” covered by Registration No. SR 378-924 covering the collection *Freeplay Music Corp./DVD #5*.
- gg. “Counting Sand,” covered by Registration No. SR 378-924 covering the collection *Freeplay Music Corp./DVD #5*.
- hh. “No Love,” covered by Registration No. SR 382-040 covering the collection *Freeplay Music Corp./DVD #1*.
- ii. “The Last Stand,” covered by Registration No. SR 386-596 covering the collection *Freeplay Music Corp./DVD #6*.
- jj. “Ascension,” covered by Registration No. SR 386-596 covering the collection *Freeplay Music Corp./DVD #6*.
- kk. “Autumn Nights,” covered by Registration No. SR 337-119 covering the collection *Piano Solos Volume 1*.
- ll. “Grand New Day,” covered by Registration No. SR 386-596 covering the collection *Freeplay Music Corp./DVD #6*.
- mm. “Trick,” covered by Registration No. SR 406-235 covering the collection *Freeplay Music Corp./CD #11*.
- nn. “Be Thrilled,” covered by Registration No. SR 633-491 covering the collection *Freeplay Music CD #13*.

- oo. “Dark Awakening,” covered by Registration No. SR 633-491 covering the collection *Freeplay Music CD #13*.
- pp. “Sad Story,” covered by Registration No. SR 633-491 covering the collection *Freeplay Music CD #13*.
- qq. “The Spy,” covered by Registration No. SR 633-491 covering the collection *Freeplay Music CD #13*.
- rr. “Crawl and Hide,” covered by Registration No. SR 633-491 covering the collection *Freeplay Music CD #13*.
- ss. “Army Angels,” covered by Registration No. SR 633-492 covering the collection *Freeplay Music, LLC/ CD #12*.
- tt. “Black and White,” covered by Registration No. SR 382-040 covering the collection *Freeplay Music Corp./DVD #1*.
- uu. “Show Me The Way,” covered by Registration No. SR 337-059 covering the collection *Solo Instruments Volume 1*.

Pocket Films’ Unlicensed Use of FPM’s Music Copyrights

18. Since June 18, 2009, Pocket Films has engaged in at least 89 uses of the FPM Copyrights and musical works, including:

- a. FPM’s copyrighted musical work “Magic Dulcimer” is exploited on the following websites: <https://www.youtube.com/watch?v=FSQdKsqQ90c>; <https://www.youtube.com/watch?v=HmsE2Fy871w>.
- b. FPM’s copyrighted musical work “Appalachian Dance” is exploited on the following websites: <https://www.youtube.com/watch?v=5oX83wM63zY>; <https://www.youtube.com/watch?v=mneAyoA-aJ0>.
- c. FPM’s copyrighted musical work “Lotus Blossom” is exploited on the following website: <https://www.youtube.com/watch?v=6Old6Vq0OKA>.
- d. FPM’s copyrighted musical work “All Night” is exploited on the following website: <https://www.youtube.com/watch?v=YWJ7RogUPRk>.
- e. FPM’s copyrighted musical work “Bum Ticker” is exploited on the following website: <https://www.youtube.com/watch?v=Onuwnu7h0PM>.
- f. FPM’s copyrighted musical work “Trudge” is exploited on the following website: <https://www.youtube.com/watch?v=JeVBM7UZepk>.

- g. FPM's copyrighted musical work "Ascent" is exploited on the following website:
<https://www.youtube.com/watch?v=Q2mhDz51btk>.
- h. FPM's copyrighted musical work "Heroes Salute" is exploited on the following website:
<https://www.youtube.com/watch?v=uUHcuUpWL4I>.
- i. FPM's copyrighted musical work "Abandoned" is exploited on the following website:
https://www.youtube.com/watch?v=HXVrR_--vJI.
- j. FPM's copyrights music work "Banging" is exploited on the following website:
<https://www.youtube.com/watch?v=Onuwnu7h0PM>.
- k. FPM's copyrighted musical work "Raw Athleticism" is exploited on the following website: <https://www.youtube.com/watch?v=zV7NAa1j-X0>.
- l. FPM's copyrighted musical work "Always Be There" is exploited on the following websites: <https://www.youtube.com/watch?v=LObP-WseXqI>;
<https://www.youtube.com/watch?v=mOXIIVAbcl8>.
- m. FPM's copyrighted musical work "Alley Kat" is exploited on the following website:
<https://www.youtube.com/watch?v=Adz2FcBCFPY>.
- n. FPM's copyrighted musical work "Can't Catch Me" is exploited on the following website: <https://www.youtube.com/watch?v=XGYPTyiP8PU>.
- o. FPM's copyrighted musical work "Long Gone" is exploited on the following website:
<https://www.youtube.com/watch?v=zV7NAa1j-X0>.
- p. FPM's copyrighted musical work "Blue Dreams" is exploited on the following website:
<https://www.youtube.com/watch?v=Onuwnu7h0PM>.
- q. FPM's copyrighted musical work "Attention Shoppers" is exploited on the following websites: <https://www.youtube.com/watch?v=DJFxBzZphFo>;
<https://www.youtube.com/watch?v=-UePkc3BOqE>.
- r. FPM's copyrighted musical work "Show Me The Way" is exploited on the following websites: <https://www.facebook.com/PocketFilmsIn/videos/916068588425062/>;
<https://www.youtube.com/watch?v=evEsuddujqQ>.
- s. FPM's copyrighted musical work "Delta Fog" is exploited on the following websites:
<https://www.youtube.com/watch?v=-02wYHsmN-4>;
<https://www.youtube.com/watch?v=hO4da3hEavQ>.
- t. FPM's copyrighted musical work "Journeys End" is exploited on the following website:
<https://www.youtube.com/watch?v=mOXIIVAbcl8>.
- u. FPM's unregistered musical work "Just Enough" is exploited on the following website:
<https://www.youtube.com/watch?v=xPJKXIkveKo>.

- v. FPM's copyrighted musical work "Etude Blanc" is exploited on the following website:
<https://www.youtube.com/watch?v=zV7NAa1j-X0>.
- w. FPM's copyrighted musical work "On The Water" is exploited on the following website:
<https://www.youtube.com/watch?v=N1PzcOnkJKs>.
- x. FPM's copyrighted musical work "Mind Star Seven" is exploited on the following website: <https://www.youtube.com/watch?v=Onuwnu7h0PM>.
- y. FPM's copyrighted musical work "Buzz" is exploited on the following website:
<https://www.youtube.com/watch?v=JeVBM7UZepk>.
- z. FPM's copyrighted musical work "Technotic" is exploited on the following website:
<https://www.youtube.com/watch?v=Onuwnu7h0PM>.
- aa. FPM's copyrighted musical work "Driftwood" is exploited on the following website:
<https://www.youtube.com/watch?v=X7WiCsMhmRY>.
- bb. FPM's copyrighted musical work "Bunny Food" is exploited on the following websites:
<https://www.youtube.com/watch?v=-02wYHsmN-4>;
<https://www.youtube.com/watch?v=hO4da3hEavQ>.
- cc. FPM's copyrighted musical work "Going Gone" is exploited on the following website:
<https://www.youtube.com/watch?v=Onuwnu7h0PM>.
- dd. FPM's copyrighted musical work "Mixed Emotions" is exploited on the following website: <https://www.youtube.com/watch?v=sg2UyIbIOJg>.
- ee. FPM's copyrighted musical work "Adagio" is exploited on the following website:
https://www.youtube.com/watch?v=HXVrR_--vJI.
- ff. FPM's copyrighted musical work "Jules" is exploited on the following websites:
https://www.youtube.com/watch?v=HXVrR_--vJI;
<https://www.youtube.com/watch?v=Onuwnu7h0PM>.
- gg. FPM's copyrighted musical work "Counting Sand" is exploited on the following website: https://www.youtube.com/watch?v=HXVrR_--vJI.
- hh. FPM's copyrighted musical work "No Love" is exploited on the following websites:
<https://www.facebook.com/PocketFilmsIn/videos/912563382108916/>;
https://www.youtube.com/watch?v=_bNuztvvmiE;
<https://www.youtube.com/watch?v=60HNSJG1Bxk>;
<https://www.youtube.com/watch?v=bhLY4gE0xXs>;
<https://www.youtube.com/watch?v=cE1KCjv4ymI>;
https://www.youtube.com/watch?v=eDlTBI1gA_E;
<https://www.youtube.com/watch?v=eSVGkfvZIJ0>;
<https://www.youtube.com/watch?v=f3tiRc1FY3Q>;
<https://www.youtube.com/watch?v=GLxym9MZ8p8>;

<https://www.youtube.com/watch?v=I05CpbRITB4>;
<https://www.youtube.com/watch?v=Jk65WeU5EQA>;
<https://www.youtube.com/watch?v=JVMENyBZyzI>;
<https://www.youtube.com/watch?v=LvJTMgBZxNk>;
<https://www.youtube.com/watch?v=MMUFJZcxvR4>;
<https://www.youtube.com/watch?v=MUKYKYPCkvQ>;
<https://www.youtube.com/watch?v=-NjlOwnN4Rc>;
https://www.youtube.com/watch?v=oY_ujwNKW7Q;
<https://www.youtube.com/watch?v=PKwApYA1il0>;
<https://www.youtube.com/watch?v=QDiT4ngGlaA>;
https://www.youtube.com/watch?v=r9_stdQ3w1o;
https://www.youtube.com/watch?v=rfau-C2_x38;
<https://www.youtube.com/watch?v=SU0JyAGhOfw>;
<https://www.youtube.com/watch?v=ttoc-pedYJQ>;
<https://www.youtube.com/watch?v=UcXJwztkYOs>;
<https://www.youtube.com/watch?v=V53rPMp18dI>;
<https://www.youtube.com/watch?v=VfVgRTln4y4>;
https://www.youtube.com/watch?v=vWOF_gE4f-Q;
<https://www.youtube.com/watch?v=Y45XY5OWo2M>.

- ii. FPM's copyrighted musical work "The Stand" is exploited on the following website:
https://www.youtube.com/watch?v=5rwkaD_pEzM.
- jj. FPM's copyrighted musical work "Ascension" is exploited on the following website:
<https://www.youtube.com/watch?v=pRTadFGDx0E>.
- kk. FPM's copyrighted musical work "Autumn Nights" is exploited on the following website: <https://www.youtube.com/watch?v=bUhytcSXmbQ>.
- ll. FPM's copyrighted musical work "Grand New Day" is exploited on the following website: <https://www.youtube.com/watch?v=xPJKXIkveKo>.
- mm. FPM's copyrighted musical work "Trick" is exploited on the following website:
<https://www.youtube.com/watch?v=mOXIIVAbcl8>.
- nn. FPM's copyrighted musical work "Be Thrilled" is exploited on the following websites:
https://www.youtube.com/watch?v=_i6aCqIzEsk;
<https://www.youtube.com/watch?v=w35CZ5bGpjQ>.
- oo. FPM's copyrighted musical work "Dark Awakening" is exploited on the following website: <https://www.youtube.com/watch?v=CCm24p9SYNk>.
- pp. FPM's copyrighted musical work "Sad Story" is exploited on the following website:
<https://www.youtube.com/watch?v=PfHO3b4lXzU>.
- qq. FPM's copyrighted musical work "The Spy" is exploited on the following website:
<https://www.youtube.com/watch?v=56-vGzIG8Aw>.

- rr. FPM's copyrighted musical work "Crawl and Hite" is exploited on the following website: http://www.youtube.com/watch?v=Akn0_vah33g.
 - ss. FPM's copyrighted musical work "Army Angels" is exploited on the following website: <https://www.youtube.com/watch?v=zV7NAa1j-X0>.
 - tt. FPM's copyrighted musical work "Black and White" is exploited on the following websites: <http://www.youtube.com/watch?v=y8h2j4yRy4A>;
<http://www.youtube.com/watch?v=tNnQm4Pnj6g>;
<http://www.youtube.com/watch?v=06k1Wh2AXeo>;
<http://www.youtube.com/watch?v=3RczNgZjq04>;
<http://www.youtube.com/watch?v=qbVEuGAZVPc>;
<http://www.youtube.com/watch?v=UGIsU8iAwhc>;
<http://www.youtube.com/watch?v=kLalfGUiOxU>.
 - uu. FPM's copyrighted musical work "Show Me The Way" is exploited on the following website: <https://www.youtube.com/watch?v=evEsuddujqQ>.
19. Upon information and belief, Pocket Films posted, or caused to be posted, the videos identified in paragraph 19.
20. Pocket Films did not receive a license to exploit FPM's Copyrighted Music in the manner set forth in paragraph 19.
21. Upon information and belief, Pocket Films copied and publicly performed FPM's Copyrighted Music through digital transmissions on the websites set forth in paragraph 19.
22. Upon information and belief, at all relevant times, Pocket Films maintained editorial control for content performed and/or copied on the websites set forth in paragraph 19.
23. On September 21, 2016, FPM's agent, TuneSat, LLC ("TuneSat") notified Pocket Films that it was using FPM's Copyrighted Music in its videos posted to the Internet.
24. On October 17, 2016, TuneSat sent additional correspondence to Pocket Films identifying the website address for each of the 61 videos posted to YouTube, along with the FPM musical work used in each video.

25. Over the next several months, TuneSat communicated with Saameer Mody regarding Pocket Films' use of FPM Copyrighted Music.

26. On January 5, 2017, TuneSat sent a letter to Mr. Mody that included a link to a file containing the FPM Copyrights.

27. TuneSat continued to correspond with Mr. Mody, and later Pocket Films' attorney Yashu Raja, to address Pocket Films' unauthorized use of FPM's Copyrighted Music.

28. Several months into these discussions, FPM continued to identify additional uses of FPM Copyrighted Music by Pocket Films.

29. Despite multiple attempts by TuneSat to resolve this matter and thorough explanations of Pocket Films' infringement, Pocket Films refused to redress its wrong.

Count I:
Copyright Infringement

30. FPM incorporates the allegations set forth in paragraphs 1 through 29 hereof, inclusive, as though the same were set forth herein.

31. This cause of action arises under 17 U.S.C. § 501 and concerns the FPM Copyrights.

32. Each of the FPM Copyrights has been registered with the United States Copyright Office.

33. FPM owns all exclusive rights under 17 U.S.C. § 106 to the FPM Copyrighted Music.

34. Each of the musical works covered by the FPM Copyrights is an original work and constitutes copyrightable subject matter within the meaning of 17 U.S.C. § 102.

35. FPM has never granted Pocket Films or otherwise authorized Pocket Films to exploit the musical works covered by the FPM Copyrights.

36. Pocket Films' acts violate FPM's exclusive rights under 17 U.S.C. §106.
37. Pocket Films' infringement of the FPM Copyrights is and has been willful, intentional, purposeful, and/or in disregard of FPM's rights.
38. FPM is entitled to its damages and Pocket Films' profits from the alleged infringement, in an amount to be proven at trial.
39. In the alternative, FPM is entitled to statutory damages, in an amount of up to \$150,000 per infringed copyright.

PRAYER FOR RELIEF

WHEREFORE, FPM respectfully prays for judgment against Pocket Films as follows:

- (a) for a ruling that Pocket Films has willfully infringed FPM's copyrights;
- (b) for injunctive relief prohibiting Pocket Films from exploiting the FPM Copyrighted Music;
- (c) for FPM's damages and, to the extent not duplicative, Pocket Films' profits attributable to the infringement;
- (d) in the alternative to actual damages, for statutory damages under 17 U.S.C. § 504(c), in an amount of up to \$150,000 per work;
- (e) for FPM's costs of this action, including reasonable attorneys' fees under 17 U.S.C. § 505;
- (f) for prejudgment and post judgment interest; and
- (g) for such other and further relief as the Court deems proper and just.

DEMAND FOR JURY TRIAL

FPM requests a trial by jury on all issues so triable.

Respectfully submitted,

BAKER & HOSTETLER LLP

Dated: December 5, 2017
New York, New York

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